

7/31/13

Talked to Tim Gary in Rep. Mursaw's office
I told Tim that the 1/2 version addresses
technical issues & also contains changes
that will avoid potential conflicts w/
the other draft we are working on

Additionally, I told Tim that this draft
takes out some provisions in the tax
chapters that I decided, after talking
w/ Joe Kreye, should be removed
I told Tim that the tax provisions are
complicated & that he may get feedback
from DOR re: other changes that
may ultimately be needed

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0056/P2ins.
RNK:.....

INSERT ANALYSIS

Current law establishes a registration program under which the Lac du Flambeau band of Lake Superior Chippewa may issue registration certificates for ATVs and UTVs that are equivalent to the registration certificates issued by DNR. This bill establishes a similar registration program for OHV registration under which the Mole Lake band of Lake Superior Chippewa, in addition to the Lac du Flambeau band, may issue registration certificates that are similar to the OHV registration certificates issued by DNR.

INSERT 4-12

SECTION 1. 20.370 (3) (at) of the statutes is amended to read:

20.370 (3) (at) *Education and safety programs.* ~~For programs or courses of instruction under ss. 23.33 (5) (d), 29.591, 30.74 (1) (a) and 350.055 (1).~~ All moneys remitted to or collected by the department under ss. 23.33 (5) (d), 23.37 (9) (d), 29.563 (12) (c) 2., 29.591 (3), 30.74 (1) (b), and 350.055 (1) shall be credited to this appropriation for programs or courses of instruction under ss. 23.33 (5) (d), 23.37 (9) (d), 29.591, 30.74 (1) (a), and 350.055 (1).

History: 1971 c. 40, 95; 1971 c. 125 ss. 101 to 121, 522 (1); 1971 c. 211, 215, 277, 330, 336; 1973 c. 12 s. 37; 1973 c. 90, 100; 1973 c. 243 s. 82; 1973 c. 296, 298, 301, 318, 333, 336; 1975 c. 8, 39, 51, 91, 198; 1975 c. 224 ss. 7d, 7f, 7m, 17 to 19p; 1977 c. 29 ss. 181 to 234, 1657 (34); 1977 c. 274, 370, 374, 376, 377; 1977 c. 418 ss. 95 to 110, 929 (37); 1977 c. 421, 432; 1977 c. 447 ss. 42 to 44, 210; 1979 c. 34 ss. 199 to 322, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1981 c. 1, 20, 86, 95, 131, 294, 330; 1981 c. 374 ss. 6, 7, 148, 150; 1983 a. 27 ss. 216m to 269, 2202 (23); 1983 a. 75, 181, 243, 397; 1983 a. 410 ss. 5m to 11, 2202 (38); 1983 a. 413; 1983 a. 416 ss. 1, 19; 1983 a. 426; 1985 a. 16, 22; 1985 a. 29 ss. 282d to 356, 3202 (26) (a), (39) (a), (c), (dm), (i); 1985 a. 46, 60, 65, 120, 202, 296; 1987 a. 27, 98, 110, 290, 295, 298, 305; 1987 a. 312 s. 17; 1987 a. 384, 397, 399, 403, 418; 1989 a. 31, 128, 284, 288, 326; 1989 a. 335 ss. 22nn to 30g, 89; 1989 a. 336, 350, 359, 366; 1991 a. 32; 1991 a. 39 ss. 326b to 394, 594c; 1991 a. 254, 269, 300, 309, 315; 1993 a. 16, 75, 166, 213, 343, 349, 415, 421, 453, 464; 1993 a. 490 ss. 18, 271; 1995 a. 27, 201, 225, 227, 296, 378, 459; 1997 a. 27, 35; 1997 a. 237 ss. 33 to 38d, 727g; 1997 a. 248; 1999 a. 9, 32, 74, 92; 1999 a. 150 s. 672; 1999 a. 185; 2001 a. 16, 56, 92, 108, 109; 2003 a. 33, 228, 251, 310, 314, 321, 327; 2005 a. 25, 286, 288, 347, 394; 2007 a. 20, 50, 97; 2009 a. 28, 42, 50, 175, 276, 365, 373; 2011 a. 32, 103, 118, 148, 151, 169, 208; 2011 a. 257 s. 56; s. 13.92 (1) (bm) 2.

INSERT 5-10

~~(dg) "Lac du Flambeau band" has the meaning given in s. 23.33 (1) (d).~~
(dm) "Mole Lake band" means the Mole Lake band of Lake Superior Chippewa.

INSERT 7-18

2. No person may operate, and no owner may give another person permission to operate, a Class B off-highway vehicle unless the off-highway vehicle is registered under this subsection or sub. (2g) or is exempt from registration under this subsection.

1 3. No person under the age of 18 may register an off-highway vehicle under this
2 subsection.

✓ INSERT 10-25

3 (2g) LAC DU FLAMBEAU BAND AND MOLE ~~LAKE~~ ^{Lake} BAND REGISTRATION PROGRAMS. (a)
4 *Authorization for issuance.* The Lac du Flambeau band and the Mole Lake band may
5 issue registration certificates for off-highway vehicles that are equivalent to the
6 registration certificates for off-highway vehicles that are issued by the department.
7 The Lac du Flambeau band and the Mole Lake band may renew and transfer a
8 registration certificate that the respective band or the department has issued. The
9 Lac du Flambeau band and the Mole Lake band may issue duplicates of only those
10 registration certificates that the respective band issues under this subsection.

11 (b) *Requirements for issuance; fees; effective periods.* 1. For issuing or renewing
12 a registration certificate under this subsection, the Lac du Flambeau band and the
13 Mole Lake band shall collect the same fee that would be collected for the equivalent
14 registration certificate under sub. (2) (a). For transferring a registration certificate
15 or issuing a duplicate registration certificate under this subsection, the Lac du
16 Flambeau band and the Mole Lake band shall collect the same fee that would be
17 collected for the equivalent service under sub. (2) (f).

18 2. The Lac du Flambeau band and the Mole Lake band may not issue, renew,
19 or otherwise process registration certificates under this subsection in conjunction
20 with discount coupons or as part of a promotion or other merchandising offer.

21 3. For a registration certificate issued, transferred, or renewed under this
22 subsection, the effective period shall be the same as it would be for the equivalent
23 registration certificate under sub. (2) (g).

1 4. The Lac du Flambeau band and the Mole Lake band may issue, renew, or
2 otherwise process registration certificates under this subsection only to applicants
3 who appear in person on the Lac du Flambeau reservation or ^{the} Mole Lake reservation,
4 respectively.

5 (c) *Requirements for registration applications and decals.* 1. The Lac du
6 Flambeau band and the Mole Lake band shall use registration applications and
7 registration certificates that are substantially similar to those under sub. (2) with
8 regard to length, legibility, and information content.

9 2. The Lac du Flambeau band and the Mole Lake band shall use registration
10 decals that are substantially similar to those under sub. (2) with regard to color, size,
11 legibility, information content, and placement on the off-highway vehicle.

12 3. The Lac du Flambeau band and the Mole Lake band shall use a sequential
13 numbering system that includes a series of letters or initials that identify the Lac du
14 Flambeau band or the Mole Lake band, respectively, as the issuing authority.

15 (d) *Registration information.* The Lac du Flambeau band and the Mole Lake
16 band shall provide registration information to the state ~~in one of the following ways:~~

17 1. By transmitting all additions, changes, or deletions of registration
18 information to persons identified in the agreement described in par. (f), for
19 incorporation into the registration records of this state, within one working day after
20 the addition, change, or deletion.

21 2. By establishing a 24-hour per day data retrieval system, consisting of either
22 a law enforcement agency with 24-hour per day staffing or a computerized data
23 retrieval system to which law enforcement officials of this state have access at all
24 times.

1 (e) *Reports; records; tax collection.* 1. Before June 1 annually, the Lac du
2 Flambeau band and the Mole Lake band shall ^{each} submit a report to the department
3 notifying it of the number of each type of registration certificate that the Lac du
4 Flambeau band and the Mole Lake band, respectively, issued, transferred, or
5 renewed, for the period beginning on April 1 of the previous year and ending on
6 March 31 of the year in which the report is submitted.

7 2. For law enforcement purposes, the Lac du Flambeau band and the Mole Lake
8 band shall ^{each} make available for inspection by the department during normal business
9 hours the Lac du Flambeau band's and the Mole Lake band's respective records of
10 all registration certificates issued, renewed, or otherwise processed under this
11 subsection, including copies of all applications made for certificates.

12 3. The Lac du Flambeau band and the Mole Lake band shall ensure that the
13 record of each registration certificate issued, renewed, or otherwise processed under
14 this subsection, including a copy of each application made, is retained for at least 2
15 years after the date of expiration of the certificate.

16 4. The Lac du Flambeau band and the Mole Lake band shall collect the sales
17 and use taxes due under s. 77.61 (1) on any off-highway vehicle registered under this
18 subsection and make the report in respect to those taxes. On or before the 15th day
19 of each month, the Lac du Flambeau band and the Mole Lake band shall pay to the
20 department of revenue all taxes that the Lac du Flambeau band and the Mole Lake
21 band, respectively, collected in the previous month.

INSERT 12-15

✓ 22 3. In any careless way so as to endanger the person or property of another.

INSERT 13-17

✓ 1 2. On or before the first day of the 7th month beginning after the effective date
2 of this subdivision... [LRB inserts date],

INSERT 13-18

✓ 3 The department shall update the maps at least annually and shall make them
4 available to the public on the department's Internet site.

INSERT 23-8

✓ 5 that is capable of absorbing, containing, and collecting a spill of a minimum of
6 3.75 gallons of petroleum products and that is

INSERT 33-4

✓ 7 **SECTION 2.** 77.61 (1) of the statutes is amended to read:

✓ 8 77.61 (1) (a) No motor vehicle, boat, snowmobile, recreational vehicle, as
9 defined in s. 340.01 (48r), trailer, semitrailer, all-terrain vehicle, utility terrain
10 vehicle, off-highway vehicle, or aircraft shall be registered or titled in this state
11 unless the registrant presents proof that the sales or use taxes imposed by this
12 subchapter have been paid.

13 (b) In the case of motor vehicles, boats, snowmobiles, recreational vehicles, as
14 defined in s. 340.01 (48r), trailers, semitrailers, all-terrain vehicles, utility terrain
15 vehicles, off-highway vehicles, or aircraft purchased from a retailer, the registrant
16 shall present proof that the tax has been paid to such retailer.

17 (c) In the case of motor vehicles, boats, snowmobiles, recreational vehicles, as
18 defined in s. 340.01 (48r), trailers, semitrailers, all-terrain vehicles, utility terrain
19 vehicles, off-highway vehicles, or aircraft registered or titled, or required to be
20 registered or titled, in this state purchased from persons who are not retailers, the

1 purchaser shall file a sales tax return and pay the tax prior to registering or titling
2 the motor vehicle, boat, snowmobile, recreational vehicle, as defined in s. 340.01
3 (48r), semitrailer, all-terrain vehicle, utility terrain vehicle, off-highway vehicle, or
4 aircraft in this state.

History: 1971 c. 125; 1975 c. 186, 224; 1977 c. 29, 200, 418; 1979 c. 89, 125, 174; 1981 c. 20; 1983 a. 189 s. 329 (12); 1983 a. 405; 1983 a. 544 s. 47 (1); 1985 a. 29, 41; 1987 a. 27, 92, 119, 246; 1989 a. 31, 122, 359; 1991 a. 39, 269, 316; 1993 a. 205, 399; 1995 a. 27, 233, 280; 1997 a. 27, 191, 237; 1999 a. 83; 2001 a. 44, 103; 2005 a. 25, 49; 2007 a. 11, 20; 2009 a. 2, 28, 276; 2011 a. 68, 208.

✓
INSERT 35-8

5 **SECTION 3.** 78.75^x (1m) (a) 2m. of the statutes is amended to read:

6 78.75 (1m) (a) 2m. A person who uses motor vehicle fuel or an alternate fuel
7 upon which has been paid the tax required under this chapter for the purpose of
8 operating an all-terrain vehicle, as defined under s. 340.01 (2g), or a utility terrain
9 vehicle, as defined under s. 23.33 (1) (ng), may not be reimbursed or repaid the
10 amount of tax paid unless the all-terrain vehicle or utility terrain vehicle is
11 registered for private use under s. 23.33 (2) (d) or (2g). A person who uses motor
12 vehicle fuel or an alternate fuel upon which has been paid the tax required under this
13 chapter for the purpose of operating an off-highway vehicle registered under s. 23.37
14 (2) (a) or (2g) may not be reimbursed or repaid the amount of tax paid.

History: 1973 c. 33; 1977 c. 29; 1979 c. 221; 1981 c. 390 s. 252; 1983 a. 189 s. 329 (33); 1985 a. 29; 1987 a. 27; 1989 a. 31; 1993 a. 16, 437; 1995 a. 113, 408; 1997 a. 27, 291; 2011 a. 208.

15 **SECTION 4.** 78.75^x (1m) (a) 3. of the statutes is amended to read:

16 78.75 (1m) (a) 3. Claims under subd. 1. shall be made and filed. The forms shall
17 indicate that refunds are not available for motor vehicle fuel or alternate fuels used
18 for motorboats, except motorboats exempt from registration as motor vehicles under
19 s. 341.05 (20) and motorboats that are not recreational motorboats, or motor vehicle
20 fuel or alternate fuels used for snowmobiles and that the estimated snowmobile
21 motor vehicle fuel or alternate fuels tax payments are used for snowmobile trails and

1 areas. The forms shall indicate that refunds are not available for motor vehicle fuel
2 or alternate fuels used for all-terrain vehicles or utility terrain vehicles unless the
3 vehicle is registered for private use under s. 23.33 (2) (d) or (2g) and shall indicate
4 that estimated all-terrain vehicle or utility terrain vehicle motor vehicle fuel or
5 alternate fuels tax payments are used for all-terrain vehicle trails and areas. The
6 forms shall indicate that refunds are not available for motor vehicle fuel or alternate
7 fuels used for off-highway vehicles registered under s. 23.37 (2)[✓](a) or (2[✓]g). The forms
8 shall also indicate that refunds are not available for the tax on less than 100 gallons.
9 The department shall distribute forms in sufficient quantities to each county clerk.

History: 1973 c. 33; 1977 c. 29; 1979 c. 221; 1981 c. 390 s. 252; 1983 a. 189 s. 329 (33); 1985 a. 29; 1987 a. 27; 1989 a. 31; 1993 a. 16, 437; 1995 a. 113, 408; 1997 a. 27, 291; 2011 a. 208.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0056/P2dn

RNK:.....

eev

date

This redraft remains in preliminary form. Please refer to the drafter's note that accompanied the previous version of this draft. Answers to Mary Gibson-Glass's question about penalties in connection with OWI laws remain outstanding.

The instructions for this version of this draft also suggested that the draft provide initial funding for the OHV program in the biennial budget bill and also provide for a grant of \$400,000. If you want to proceed with this item, please let me know. If you want the draft to provide for a grant, I will need more information in order to draft the necessary language for awarding a grant for this purpose.

The instructions for this version of the draft also include a request to impose a surcharge to be used to fund the enforcement of OHV laws and to fund the restoration of trails damaged by the operation of OHVs. How much would you like the surcharge to be? Once I have that information, I will include it in the next version of the draft.

Please note that under current law with respect to ATVs and UTVs, certain amounts are transferred from the transportation fund to the conservation fund equal to the gas tax formula specified under s. 25.29(1) ~~and (dm)~~ ^{and (dr)}. The formula is based upon the number of ATVs and UTVs registered in the previous fiscal year. This draft does not require a similar transfer from the transportation fund to the conservation ^{fund} with respect to OHVs. Is this consistent with your intent?

Please feel free to contact me if you have any questions about this draft.

Robin N. Kite
Senior Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0056/P2dn
RNK:eev:jm

February 10, 2013

This redraft remains in preliminary form. Please refer to the drafter's note that accompanied the previous version of this draft. Answers to Mary Gibson-Glass's question about penalties in connection with OWI laws remain outstanding.

The instructions for this version of this draft also suggested that the draft provide initial funding for the OHV program in the biennial budget bill and also provide for a grant of \$400,000. If you want to proceed with this item, please let me know. If you want the draft to provide for a grant, I will need more information in order to draft the necessary language for awarding a grant for this purpose.

The instructions for this version of the draft also include a request to impose a surcharge to be used to fund the enforcement of OHV laws and to fund the restoration of trails damaged by the operation of OHVs. How much would you like the surcharge to be? Once I have that information, I will include it in the next version of the draft.

Please note that under current law with respect to ATVs and UTVs, certain amounts are transferred from the transportation fund to the conservation fund equal to the gas tax formula specified under s. 25.29 (1) (dm) and (dr). The formula is based upon the number of ATVs and UTVs registered in the previous fiscal year. This draft does not require a similar transfer from the transportation fund to the conservation fund with respect to OHVs. Is this consistent with your intent?

Please feel free to contact me if you have any questions about this draft.

Robin N. Kite
Senior Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov

Kite, Robin

From: Kite, Robin
Sent: Monday, March 04, 2013 2:27 PM
To: Gary, Tim
Cc: Gibson-Glass, Mary
Subject: RE: LRB-0056

Tim:

As you know, I included a drafter's note with this draft. That note raises issues that require responses before I can proceed with a redraft. Also, if the proposed constitutional amendment under Assembly Joint Resolution 2 is ratified, OHVs will have to be regulated by DOT and not DNR and any fees will have to be deposited in the transportation fund instead of the conservation fund. That is, if the constitutional amendment is ratified, certain provisions of this draft would be unconstitutional as drafted. If you want to discuss any of the issues raised in the drafter's note or want to discuss the issue concerning the constitutional amendment, I would be happy to meet with you at your convenience. As soon as these issues are resolved, I will be able proceed with a redraft.

Thanks.

Robin

From: Rep.Mursau
Sent: Monday, March 04, 2013 1:48 PM
To: Kite, Robin; Gibson-Glass, Mary
Subject: FW: LRB-0056

Please include the attached revisions.

Tim Gary
Office of Rep. Jeff Mursau

From: WOHVA-Executive Director [<mailto:wohva.ceo@charter.net>]
Sent: Saturday, March 02, 2013 4:10 PM
To: Rep.Mursau
Subject: LRB-0056

Tim,

Attached please find the reviewed copy of LRB-0056 with a few comments embedded within the text. Feel free to contact me with any questions or concerns. Thanks!

Happy Trails,

John Schnorr, Executive Director
Wisconsin Off-Highway Vehicle Association (WOHVA)
P.O. Box 1865
Fond du Lac, WI 54936-1865
(715) 490-5463
ceo@wohva.com

"Stay on the Trail or Stay Home"

Kite, Robin

From: Gary, Tim
Sent: Tuesday, March 05, 2013 4:26 PM
To: Kite, Robin; Gibson-Glass, Mary
Subject: LRB 0056

OWI:

Please mirror the provisions of 23.33 (13)

Do ATV, LUV, and/or snowmobile alcohol violations impact regular motor vehicle driving records? If so, please add it here too. If not, please do not add it here.

Please include a one-time grant of \$400,000 and let me know what other information you will need for this provision. 7

Please add a \$100 surcharge on top of forfeitures to fund enforcement activities ✓ 0

In order to deal with the transportation fund transfer, please instead transfer an equal amount from General Purpose Revenue instead of from the transportation fund as was done with the Veterans Trust Fund in 2013LRB1417/1 being circulated by Senator Jerry Petrowski.

Follow up w/ Tim Gary -
leave out gas tax formula provisions

Kite, Robin

From: Kite, Robin
Sent: Tuesday, March 12, 2013 4:48 PM
To: Gary, Tim
Subject: LRB-0056

Tim:

I am finishing my work on redrafting the off-highway vehicle draft. In your last email, you indicated that the draft should include a one-time grant of \$400,000. To whom does this grant go and for what purpose? Or do you mean that you want to appropriate this amount in the next biennium from the general fund for the purpose of funding the initial costs of the program?

Thanks.
Robin

Robin N. Kite
Senior Legislative Attorney
Wisconsin Legislative Reference Bureau
1 E. Main St., Suite 200
Madison, WI 53703
(608) 266-7291

*Tim is checking on this & will get back
to me.*

OHV operation

The bill prohibits any person from operating a Class B OHV on public property unless the person operates the OHV on an OHV trail. To operate a Class B OHV on private property, the operator must obtain the consent of the property owner.

Under this bill, a person must obtain an operator's license from DOT to operate an OHV. Current law does not require a person to hold an operator's license to operate an ATV or UTV. The bill also prohibits a person from operating a Class B OHV at a speed greater than 20 miles per hour.

***** It should be illegal to operate a Class A OHV or Class B OHV on an OHV Trail in excess of the posted speed limit. If speed limit is not posted, it shall be illegal to operate a Class A OHV or Class B OHV at a speed in excess of 20 mph. *****

Under this bill, only a person who is at least 16 years old may operate an OHV on an OHV trail. The bill provides that if the operator is 16 or 17 years old, he or she may not operate an OHV on an OHV trail unless he or she wears protective headgear and is accompanied by another person who is at least 18 years old operating an OHV. Finally, if the operator is a person born on or after December 31, 1993, he or she must hold a valid safety certificate to operate the OHV on an OHV trail. This bill requires DNR to establish a program of instruction on OHV laws and to issue certificates to persons who successfully complete the program. These requirements are similar to the requirements that apply under current law concerning programs of instruction on ATV and UTV laws.

This bill prohibits a person from operating an OHV while under the influence of an intoxicant and requires an OHV operator to submit to certain screening tests if a law enforcement officer has probable cause to believe that the operator is violating or has violated the law prohibiting the intoxicated operation of an OHV. These provisions are similar to the provisions in current law relating to the operation of an ATV or UTV while under the influence of an intoxicant.

OHV council

This bill creates an OHV council (council) consisting of five members who are knowledgeable in the recreational use of OHVs. The bill requires DNR to distribute any rule that it proposes that affects the operation of OHVs to each member of the council for review and comment. The bill also requires DNR to consult with the council on proposed changes for the succeeding biennium in the appropriations and laws that affect OHVs and requires the council to meet to review the provisions affecting OHVs that are included in each executive budget bill.

OHV grant program and damage claim program

This bill also requires DNR to establish a program to award grants to organizations that promote the operation of OHV vehicles in a manner that is safe and responsible and that does not harm the environment. An organization that receives a

1 (ar) "All-terrain vehicle" has the meaning given in s. 340.01 (2g).

2 (aw) "Approved public treatment facility" has the meaning given in s. 51.45 (2)

3 (c).

****NOTE: Editing note. This definition is a placeholder for future penalty provisions.

4 (b) "Class A off-highway vehicle" means an off-highway vehicle that is eligible
5 for registration under ch. 341.

6 (c) "Class B off-highway vehicle" means an off-highway vehicle that is not
7 eligible for registration under ch. 341 as provided under s. 341.10 (6).

8 (cf) "Controlled substance" has the meaning given in s. 961.01 (4).

9 (ch) "Controlled substance analog" has the meaning given in s. 961.01 (4m).

10 (cm) "Intoxicant" means any alcohol beverage, controlled substance, controlled
11 substance analog, or other drug or any combination thereof.

12 (cp) "Intoxicated operation of an off-highway vehicle law" means sub. (4c) or
13 a local ordinance in conformity therewith or, if the operation of an off-highway
14 vehicle is involved, s. 940.09 or 940.25.

15 (ct) "Lac du Flambeau band" has the meaning given in s. 23.33 (1) (id).

16 (d) "Law enforcement officer" has the meaning given in s. 165.85 (2) (c) and
17 includes a person appointed as a conservation warden by the department under s.
18 23.10 (1).

19 (dm) "Mole Lake band" means the Mole Lake band of Lake Superior Chippewa.

20 (e) "Motorcycle" has the meaning given in s. 340.01 (32).

21 (f) "Off-highway vehicle" means a 4-wheel drive vehicle that is capable of
22 cross-country travel on natural terrain without the benefit of a road or trail. An

****NOTE: For now, I have omitted language as to how convictions are to be counted as prior violations. See the accompanying drafter's note.

1 5. a. In an action under this paragraph, the defendant has a defense if he or she
2 proves by a preponderance of the evidence that the injury would have occurred even
3 if he or she had been exercising due care and he or she had not been under the
4 influence of an intoxicant, did not have an alcohol concentration of more than 0.0, or
5 did not have a detectable amount of a restricted controlled substance in his or her
6 blood.

7 b. In an action under subd. 3. that is based on the defendant allegedly having
8 a detectable amount of methamphetamine, gamma-hydroxybutyric acid, or
9 delta-9-tetrahydrocannabinol in his or her blood, the defendant has a defense if he
10 or she proves by a preponderance of the evidence that at the time of the incident or
11 occurrence he or she had a valid prescription for methamphetamine or one of its
12 metabolic precursors, gamma-hydroxybutyric acid, or
13 delta-9-tetrahydrocannabinol.

14 **(4g) PRELIMINARY BREATH SCREENING TEST.** (a) *Requirement.* A person shall
15 provide a sample of his or her breath for a preliminary breath screening test if a law
16 enforcement officer has probable cause to believe that the person is violating or has
17 violated the intoxicated operation of an off-highway vehicle law and if, prior to an
18 arrest, the law enforcement officer requested the person to provide this sample.

19 (b) *Use of test results.* A law enforcement officer may use the results of a
20 preliminary breath screening test for the purpose of deciding whether or not to arrest
21 a person for a violation of the intoxicated operation of an off-highway vehicle law or
22 for the purpose of deciding whether or not to request a chemical test under sub. (4p).

1 (5) EQUIPMENT REQUIREMENTS. No person may operate a Class B off-highway
2 vehicle unless it meets all of the following requirements:

3 (a) It has a minimum of 4 wheels and is propelled by those wheels using an
4 electric or internal combustion engine.

5 (b) If it is equipped with an internal combustion engine, it has a complete
6 exhaust system that includes a muffler and a tailpipe.

7 (c) It has a permanently mounted and attached fuel cell or tank.

8 (d) It has a frame-mounted roll cage that is constructed in a manner specified
9 by the department by rule and that encloses the operator and each passenger.

10 (e) It has a permanently affixed blaze orange safety flag that is at least 144
11 square inches in size and that is displayed from a pole that extends at least 8 feet
12 above the ground on the front passenger side of the off-highway vehicle.

13 (f) It has 2 headlights.

14 (g) It has 2 brake lights.

15 (h) It has front and rear turn signals.

16 (i) It has side markers on the front and rear driver and passenger sides.

17 (j) All of the seats are permanently mounted and equipped with shoulder and
18 lap safety belts.

19 (k) It does not contain an infant or child seat.

20 (L) It is equipped with an unopened kit that is capable of absorbing, containing,
21 and collecting a spill of a minimum of 3.75 gallons of petroleum products and that
22 is approved by the Wisconsin Off-Highway Vehicle Association.

23 (m) It has a battery that is secured in the vehicle in a manner that requires the
24 use of a wrench or key to remove it.

✓
Comment [JGS1]: Please limit engine and exhaust sound to 96db. This would mirror the sound level enforced by DOT for street legal vehicles.

D-N ↑ already indraft
see sub (6)

D-Note
Comment [JGS2]: Please require all Class A OHV's to carry a spill kit when operating on an OHV Trail. Also, please strike Wisconsin Off-Highway Vehicle Association and replace with Wisconsin OHV Council.

↓
council cannot have powers - want a board?

1 vehicle trail sign or standard or intentionally interfere with the effective operation
2 of any uniform off-highway vehicle trail sign or standard if the sign or standard is
3 legally placed by the state, any municipality, or any authorized individual.

4 2. No person may possess any uniform off-highway vehicle trail sign or
5 standard of the type established by the department for the warning, instruction, or
6 information of the public, unless he or she obtained the uniform off-highway vehicle
7 trail sign or standard in a lawful manner. Possession of a uniform off-highway
8 vehicle trail sign or standard creates a rebuttable presumption of illegal possession.

9 (9) AGE RESTRICTIONS FOR OPERATION; SAFETY CERTIFICATE REQUIREMENTS. (a) No
10 person under the age of 16 may operate an off-highway vehicle on an off-highway
11 vehicle trail.

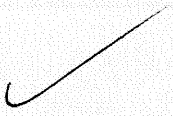
12 (b) No person who is 16 or 17 years of age may do any of the following:

13 1. Operate an off-highway vehicle on an off-highway vehicle trail without
14 wearing protective headgear of the type required under s. 347.485 (1) (a) and with
15 the chin strap properly fastened.

16 2. Operate an off-highway vehicle on an off-highway vehicle trail unless he or
17 she is subject to the continuous verbal direction and control of a person who is
18 operating another off-highway vehicle and who is at least 18 years of age.

19 (c) No person who is born on or after December 31, 1993, may operate an
20 off-highway vehicle on an off-highway vehicle trail unless he or she holds a valid
21 safety certificate issued under par. (d) or issued by another state or a province of
22 Canada.

23 (d) The department shall establish or supervise the establishment of a program
24 of instruction on off-highway vehicle laws, including the intoxicated operation of an
25 off-highway vehicle law, regulations, safety, and related subjects. The department



Comment [JGS3]: Please strike the helmet requirement.

1 shall establish by rule an instruction fee for this program. The department shall
2 issue certificates to persons successfully completing the program. An instructor
3 conducting the program of instruction under this paragraph shall collect the fee from
4 each person who receives instruction. The department may determine the portion
5 of this fee, which may not exceed 50 percent, that the instructor may retain to defray
6 expenses incurred by the instructor in conducting the program. The instructor shall
7 remit the remainder of the fee or, if nothing is retained, the entire fee to the
8 department. The department shall issue a duplicate certificate of accomplishment
9 to a person who is entitled to a duplicate certificate of accomplishment and who pays
10 a fee of \$5.

11 (10) GRANT PROGRAM. (a) The department shall establish a program to award
12 grants to organizations that meet the eligibility requirements under par. (b).

13 (b) To be eligible for a grant under this subsection, an organization shall meet
14 all of the following requirements:

15 1. The organization is a nonstock corporation organized in this state.

16 2. The organization promotes the operation of off-highway vehicles in a
17 manner that is safe and responsible and that does not harm the environment.

18 3. The organization promotes the operation of off-highway vehicles in a
19 manner that does not conflict with the laws, rules, and departmental policies that
20 relate to the operation of off-highway vehicles.

21 4. The interest of the organization is limited to the recreational operation of
22 off-highway vehicles on off-highway vehicle trails and other areas that are off of the
23 highways.

24 5. The organization has a board of directors that has a majority of members who
25 are representatives of off-highway vehicle clubs.

✓
Comment [JGS4]: Change to: are OHV
recreation enthusiasts who currently use OHV
recreational trails.

1 30.26 (4) (b) The state shall permit all-terrain vehicles, utility terrain vehicles,
2 and snowmobiles to travel in a corridor across any state land that separates an
3 all-terrain vehicle trail or a snowmobile trail and the bridges constructed at the
4 locations listed under par. (a).

 ***NOTE: Do you want to amend this provision to include off-highway vehicles? YES

5 SECTION 15. 30.29 (1) (b) of the statutes is amended to read:

6 30.29 (1) (b) "Motor vehicle" includes a utility terrain vehicle, as defined in s.
7 23.33 (1) (ng), ~~and~~ an all-terrain vehicle, as defined in s. 340.01 (2g), and an
8 off-highway vehicle, as defined in s. 23.37 (1) (f).

9 SECTION 16. 77.61 (1) of the statutes is amended to read:

10 77.61 (1) (a) No motor vehicle, boat, snowmobile, recreational vehicle, as
11 defined in s. 340.01 (48r), trailer, semitrailer, all-terrain vehicle, utility terrain
12 vehicle, off-highway vehicle, or aircraft shall be registered or titled in this state
13 unless the registrant presents proof that the sales or use taxes imposed by this
14 subchapter have been paid.

15 (b) In the case of motor vehicles, boats, snowmobiles, recreational vehicles, as
16 defined in s. 340.01 (48r), trailers, semitrailers, all-terrain vehicles, utility terrain
17 vehicles, off-highway vehicles, or aircraft purchased from a retailer, the registrant
18 shall present proof that the tax has been paid to such retailer.

19 (c) In the case of motor vehicles, boats, snowmobiles, recreational vehicles, as
20 defined in s. 340.01 (48r), trailers, semitrailers, all-terrain vehicles, utility terrain
21 vehicles, off-highway vehicles, or aircraft registered or titled, or required to be
22 registered or titled, in this state purchased from persons who are not retailers, the
23 purchaser shall file a sales tax return and pay the tax prior to registering or titling
24 the motor vehicle, boat, snowmobile, recreational vehicle, as defined in s. 340.01